

From: Paul Mason [Mason@SierraClubCalifornia.org]
Sent: Monday, October 23, 2006 12:50 PM
To: Public Comments; Zimny, Chris
Cc: Richard Gienger
Subject: Comments on RMP 2006

Attachments: RMP comments.pdf; ATT68653.htm
October 23, 2006

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

RE: Comments on Road Management Plan 2006 Rule Package

Sierra Club California offers the attached comments on the proposed Road Management Plan (RMP) 2006 rule package.? As we have previously conveyed in committee discussions, during the 45-day notice hearing, and most recently during the committee report at the October Board meeting, the proposed rule package suffers from a number of serious, fatal flaws, and should be referred back to committee for strengthening refinement and clarification.

The pitfalls of creating rules that are unclear and leave definitions, procedures and standards to later interpretation are dramatically illustrated by the fact that the Sierra Club and Environmental Protection Information Center (EPIC) have been embroiled in seven years of litigation with CDF and DFG over (among many other issues) the meaning of the word "plan" in reference to a Sustained Yield Plan (SYP).? Despite the seemingly clear meaning of the word, CDF has taken the absurd position that a "plan" does not need to be a discrete, tangible document and that the entirety of the 80,000 page administrative record constitutes the "plan" for Pacific Lumber lands.? This litigation has cost all parties hundreds of thousands of dollars, and is currently under review by the California Supreme Court.? We note this example to highlight the need for *explicit* clarity in the rule package.? Assumptions regarding the implicit meaning of the language are simply an invitation to litigation.? It is incumbent upon the Board to avoid adopting ambiguous rule language that invites abuse and/or litigation.

Frankly, we are surprised and disappointed that the Board has continued to move forward with a package with such obvious shortcomings.? For example, aside from our previously stated concerns, the Board had asked the Demonstration State Forest (DSF) program to provide some feedback on the package.? The DSF program staff recently noted the lack of clarity in several important areas of the rule package, including "the intent, enforcement, implementation and timing of project work.?" Noticing a rule package for

public review, despite the identification of such significant flaws by resource management professionals within CDF places an unfair burden on the public.?

Nonetheless, we provide the following detailed general and specific comments on the proposed rule package.

Sincerely,

/s/

Paul Mason

Encl: Comments from Law Office of Brian Gaffney